General Agreement on Tariffs and Trade

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THE GENERAL AGREEMENT on Tariffs and Trade (GATT) is an international multilateral trade agreement entered into by the United States and all its major trading partners.

There were 62 full-member countries in 1964. Several countries participate under special or temporary arrangements. They include almost all trading nations of the free world.

It is the most comprehensive agreement ever concluded to promote international cooperation in trade policies and reduce barriers to international trade. It is the principal instrument for such cooperation in the free world. The United States uses it as a major vehicle for developing its trade relations with other countries.

The United States entered the agreement under authority of the Trade Agreements Act, which was first enacted in 1934, when an intense economic depression gripped the world.

The domestic economic and international trade policies of countries after the First World War aggravated the situation. They tried to recover from destruction, chaos, and bitterness by setting up controls on foreign commercial relations. They raised tariffs and applied quotas to restrict imports. They made preferential trading arrangements, and encountered retaliation by countries that claimed the arrangements hurt them. The complicated system of restrictive devices that developed endangered international trade and economic health of all nations.

The Congress enacted the Trade Agreements Act for the declared purpose of expanding foreign markets for American products and strengthening our economy. The President was given authority to enter into trade agreements with foreign governments for the reduction of tariffs and other trade restrictions on a reciprocal basis.

The United States accordingly negotiated agreements with other governments. In each agreement, the United States obtained reductions in duties applied against specified American goods in the market of the foreign country. In return, the United States made similar reductions in its duties on products of particular interest to the other country.

The agreement also provided rules and limitations on the use of other trade devices that could impair the value of the tariff concessions. It was necessary, for example, to provide that import quotas and discriminating internal taxes would not be used to nullify or impair what had been given as a tariff concession.

Thus the agreements contained specific commitments on the level of duties and general provisions as to such matters as quotas and internal taxes. As experience with the negotiation and operation of these bilateral trade agreements grew, succeeding agreements became broader in scope and more complex.

Up until the Second World War, the United States negotiated bilateral trade agreements with 29 countries. They helped stabilize relations and reduce the level of trade barriers.

Much remained to be done, however, to get effective agreement among trading nations to reduce obstacles to trade. Bilateral agreements seemed to have reached their maximum effectiveness for this purpose. Their limitations were recognized.

One was that they did not induce a

country to give up or modify an undesirable trade practice—for example, import quotas. Some countries felt the need to maintain an extensive quota system merely to be in a position to counter against another nation applying quotas against it. It was possible to obtain a country's agreement to remove a few specific products from the quota system, but no country was willing to commit itself to any great limitation on the use of quotas unless its main trading partners were likewise committed to similar undertakings.

Also, in bilateral agreements, countries tended to hold back tariff concessions lest other countries not party to the agreement would obtain benefits without giving any equivalent.

In those circumstances, the United States, near the end of the Second World War, initiated a series of meetings among the leading trading nations of the free world to develop a multilateral agreement to apply to international trade. A charter for an International Trade Organization (ITO) was completed in Havana in 1948.

The charter covered many details of economic affairs and international trade. It contained rules to govern the trade practices of member governments that directly affected their economic policies. The charter therefore was submitted for acceptance by governments at a later date.

Meanwhile, members of the conference agreed to begin negotiations to lower tariffs and other restrictions. The negotiations took place at Geneva in 1947 at the same time the ITO Charter was being considered.

The results of the negotiations were embodied in a multilateral trade agreement, the General Agreement on Tariffs and Trade, or the GATT. It was signed on October 30, 1947, and came into force on January 1, 1948. Twenty-three countries initially accepted it. What was initiated as an interim arrangement pending the adoption of the ITO Charter now remains an international agreement for the conduct of trade.

The contracting parties to the GATT on January 1, 1964, were: Australia, Austria, Belgium, Brazil, Union of Burma, Federal Republic of Cameroon, Canada, Central African Republic, Ceylon, Chad, Chile, Republic of Congo (Brazzaville), Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Finland, France, Gabon, the Federal Republic of Germany, Republic of Ghana, Greece, Republic of Haiti, India, Indonesia, Israel, Italy, Republic of Ivory Coast, Jamaica, Japan, Kuwait, Luxembourg, Malagasy Republic, Malawi, Malaysia, Islamic Republic of Mauritania, Kingdom of the Netherlands, New Zealand, Nicaragua, Republic of Niger, Federation of Nigeria, Norway, Pakistan, Peru, Portugal, Republic of Senegal, Sierra Leone, Republic of South Africa, Southern Rhodesia, Spain, Sweden, Tanganyika, Trinidad and Tobago, Turkey, Uganda, the United Kingdom, the United States, Republic of Upper Volta, Uruguay, and Zambia.

Five countries acceded provisionally—Argentina, Switzerland, Republic of Tunisia, the United Arab Republic, and Yugoslavia.

Countries that participated in the work of the Contracting Parties under special arrangements were the Kingdom of Cambodia and Poland.

Countries to whose territories the GATT has been applied since 1948 and which, as independent states, maintained a de facto application of the GATT pending final decisions as to their future commercial policy were: Democratic and Popular Republic of Algeria, Kingdom of Burundi, Republic of the Congo (Léopoldville), Republic of Mali, the Republic of Rwanda, and Republic of Togo.

The Contracting Parties in November 1954 undertook an examination of the agreement in the light of the experience of the previous years. After more than 4 months of negotiations, they reaffirmed the basic objectives and obligations and revised certain of the trade rules to make them more effective and better adapted to meet future needs of the trading partners. (The term "contracting parties," when it is used herein without initial capitals, refers to member countries acting individually; when it is used with initial capitals—Contracting Parties—it refers to the member countries acting as a group.)

During the review, the organization provisions of the GATT were renegotiated for inclusion in a separate agreement to establish an Organization for Trade Cooperation (OTC), which would be a permanent organization whose principal function would be to administer the GATT. Several countries accepted the separate agreement, but it cannot become effective until it is accepted by more of the principal trading nations, including the United States.

THE GATT is a comprehensive and complicated agreement, but its technical provisions rest on three basic principles.

The first is nondiscrimination by each participating country in its trade with the others. In commercial policy, this is customarily referred to as "most-favored-nation treatment," or MFN treatment. Each contracting party in the GATT agrees to give all other contracting parties any trade advantage, favor, privilege, or immunity it grants to any other country, whether or not the other country is a member, subject to certain limited and expressed exceptions.

The second is that customs tariffs shall be the only means for affording protection to domestic industries. Import quotas are prohibited. Import quotas may be permissible or authorized for other purposes, to safeguard a country's balance of payments, for example, but their use for such must conform to defined conditions.

The third basic principle is to afford an international forum for discussing and settling mutual problems of international trade.

The fundamental principles are encompassed in a series of rules and provisions. The agreement is formally structured in 3 parts and 35 articles.

Part I deals with tariffs and preferences; part II, with nontariff barriers; and part III, with procedural and other matters.

The most-favored-nation obligation is imposed by article I. Certain exceptions are specified. The most important at the beginning applied to preferential arrangements between the United States and Cuba and the Philippines and between countries of the British Commonwealth existing in 1947. Preferential treatment then permitted is not to be increased in the future. Another exception permits countries applying any import restrictions for balance-of-payment reasons or for development of an underdeveloped economy to discriminate temporarily under specified conditions. This deviation was practiced in several countries.

New regional arrangements have brought into focus another and more lasting exception to the MFN principle. Article XXIV recognizes the integration of national economies into a customs union or free trade area as a means of furthering the objectives.

Under certain conditions, a customs union or a free trade area is exempt from the most-favored-nation obligation. These conditions are designed to assure that tariffs and other barriers to trade within the area are reduced and eliminated and that more restrictive barriers to trade would not be thereby created.

The purpose is to prevent the creation of preferential arrangements that would further restrict trade between the regional unit and the rest of the trading world.

SEVERAL TREATIES and conventions establishing the following regional arrangements have been examined by the Contracting Parties in accordance with the provisions of the GATT.

They are the European Economic Community (Belgium, Luxembourg, the Netherlands, the Federal Republic of Germany, France, and Italy) whose members are contracting parties to the GATT; European Free Trade Association (Austria, Denmark, Norway, Portugal, Sweden, Switzerland, the United Kingdom, and Finland, an associate member, all of whom are contracting parties to the GATT); and the Latin American Free Trade Association (Brazil, Chile, Peru, Uruguay—all members of the GATT—Argentina, Mexico, Paraguay, Colombia, and Ecuador).

Subsequently it was decided that some legal and practical issues called for further discussion and review.

Accordingly, procedures were established to provide for such further review by the Contracting Parties.

The tariff concessions agreed to at any conference to negotiate tariffs are listed in schedules, which are annexed to the agreement and become a part of it by the terms of article II.

Each contracting party has a separate schedule, in which the specific product identification and the rate of duty are set forth. A country is obligated not to charge a higher rate of duty than that specified in its schedule for that product. This obligation, however, does not prevent a country from imposing internal revenue taxes on imports at the same rates as those applied to a similar domestic product; any antidumping or countervailing duties; and fees or other charges for services, such as for documentation, that are reasonable for the services rendered.

AN IMPORTANT goal of the GATT is to reduce tariffs.

Because customs duties and other charges on imports often hinder trade, the Contracting Parties have made a major effort to reduce tariffs as a way to expand it.

Conferences are convened from time to time to negotiate about tariffs. The extent of participation is determined largely by the scope of a country's trading interests. The United States engages in the broadest negotiation.

Six major conferences have been convened by the Contracting Parties—in 1947 in Geneva; 1949, Annecy, France; 1951, Torquay, England; 1956, 1960–1961, 1964, Geneva.

The conferences have resulted in tariff reductions or commitments against tariff increases that affect more than 60 thousand items in world commerce.

It is estimated that tariffs have been lowered on products accounting for about half of world trade and that about 75 percent of American agricultural exports are to the GATT countries. More than half of these exports were subject to negotiated duties.

When the General Agreement on Tariffs and Trade was signed in 1947, it was agreed that the tariff concessions negotiated at that time would become effective on January 1, 1948, and remain in effect until the end of 1950.

At the end of that time, a contracting party could modify or withdraw any concession by negotiation and agreement with the country with which the concession was initially negotiated.

When modifying or withdrawing a concession, a country should seek to replace it with an equivalent concession, but if no agreement was reached on the substituted concession, the other country could withdraw substantially equivalent concessions.

There was the possibility therefore that extensive renegotiations under article XXVIII could result in a substantial reduction in the wide range of concessions previously negotiated. To forestall this possibility, the effective period for the schedule of concessions was extended from time to time by the Contracting Parties.

In its review of the GATT in 1954–1955, the Contracting Parties adopted a rule that effects an automatic extension of the firm period of the schedules for successive periods of 3 years. Adjustments in individual tariff rates may be negotiated during an open season of several months before the beginning of the new term.

Suitable opportunities are likewise

given for individual adjustment of tariff rates during the firm period when unforeseen developments make them necessary and the Contracting Parties approve.

Member countries concerned with renegotiations under this provision must seek agreement that will maintain the level of concessions covered by it. If they cannot agree, the country wishing to withdraw the concessions may do so. The other country or countries concerned may then withdraw from its schedule of tariffs substantially equivalent concessions negotiated with the country that modifies its concessions.

Article XIX contains an escape clause. It provides that if unforeseen circumstances and a concession lead to increases in imports that cause or threaten serious injury to domestic producers, a contracting party may withdraw or modify the concession long enough to prevent or remedy the injury. Other countries adversely affected may suspend equivalent tariff concessions or obligations unless the country invoking the escape clause makes compensatory concessions.

Part II covers trade barriers other than tariffs.

It has provisions for the treatment of internal taxes—foreign goods must be given equal treatment as domestic products—customs formalities and valuation, marks of origin, antidumping, countervailing duties, subsidies, state trading, quotas, complaints, and general exceptions to the basic rules.

A basic principle is a general prohibition on the use of quantitative restrictions or quotas on imports, which hamper trade because they establish an absolute barrier that cannot be overcome by prices or demand.

The widespread use of quotas between the wars reduced trade to the detriment of many countries, including the United States. The prohibition on the use of quotas, except in specific circumstances, prevents their use to nullify or impair tariff concessions negotiated in the GATT.

The main exception permits a country that has difficulties in balance of payments to impose import restrictions to safeguard its balance and monetary reserves. In special circumstances, the restrictions may be applied in a discriminatory fashion. The import restrictions must not exceed those necessary to accomplish the purpose of fulfilling the purpose authorized. Contracting parties applying these restrictions must progressively relax them as conditions improve and must eliminate them when they are no longer needed.

Various safeguards protect the interest of exporting countries whose trade is affected by these import restrictions. Unless specifically authorized, the permitted quantitative restrictions must be nondiscriminatory. Restrictions must avoid unnecessary damage to the commercial or economic interests of other contracting parties.

Provision also is made for the importation of minimum commercial quantities in order to maintain regular trade channels and to comply with patent and trademark requirements. The import restrictions of a contracting party are reviewed regularly.

A country that imposes new restrictions or intensifies old ones must consult with the Contracting Parties. Any country that considers that another is applying import restrictions inconsistent with the provisions of the GATT may bring the matter up before the Contracting Parties and seek redress for the damage to its trade.

During the exceptional postwar years, many countries invoked the balance-of-payment privilege to impose import restrictions. Consultations kept them under repeated review, discrimination was reduced, and the restrictions were relaxed or eliminated whenever conditions improved.

The widespread use of quantitative restrictions for balance-of-payment reasons could no longer be justified after 1959, when major trading countries took action regarding the convertibility of their currencies. Progress was made thereafter in dismantling the restrictions.

Faster progress was made in the industrial sector than in the agricultural sector. As a consequence, countries that no longer justified their action on balance-of-payment grounds continued to apply restrictions on imports of agricultural products, contrary to the provisions of the GATT.

Certain other exceptions to the general rule are stated in article XI. They include export restrictions imposed because of a short supply of food or other essential commodity; import and export restrictions imposed in connection with grading or marketing standards; and import restrictions on agricultural or fisheries products if the restrictions are necessary to the enforcement of domestic measures that restrict the domestic marketing or production of the like product or for the removal of temporary surpluses.

THE EFFECTIVENESS of the GATT in promoting trade among nations rests on its aims to reduce tariffs and eliminate quotas and other obstacles to trade.

Another major contribution has been its consultations.

The Contracting Parties generally meet in regular session once a year at their headquarters in Geneva. They have met twice a year to afford prompt consideration of trade problems.

A Council of Representatives was established in 1960 to handle routine details and certain urgent matters. The Council meets whenever business is to be transacted. At the regular sessions of the Contracting Parties, discussions center on trade problems and are aimed at reaching agreement on principles, trade policies, and practices of mutual benefit.

The meetings are the occasion also for settling any disputes that may arise. A formal basis for consultations and for considering the complaints has been established. Each member agrees that it will give sympathetic consideration and afford adequate opportunity for consultation to any representation made by another contracting party. If a satisfactory solution is not reached, the Contracting Parties may ask that the matter be brought up for general consideration.

The first step is for the complaining country to consult with the country concerned. If no satisfactory adjustment is approved in a reasonable time, a complaint may be lodged with the Contracting Parties. The Contracting Parties then must promptly investigate the matter and make recommendations or rule on the dispute. In exceptional circumstances, the ruling may authorize the complaining country to suspend the application to the offending country of such concessions or obligations under the agreement as are determined to be appropriate. In any such case, the contracting party against which the ruling is made may withdraw from the GATT.

The differences usually are adjusted through bilateral consultations. In instances when the complaints have been submitted to the Contracting Parties, panels of conciliation have been appointed to make an investigation and to submit a report with recommendations for decision to the Contracting Parties. A panel of conciliation is established for each complaint and comprises experts from countries that have no direct interest in the matter.

These procedures have been successful. This international forum for the frank discussion of mutual problems has proved to be an effective way to develop good will and cooperation among nations in resolving problems of trade relations. Although originally intended as a stopgap, the GATT is the only instrument that provides a set of rules for international trade and the machinery to carry them out.

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